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husband of the deceased. He had previously obtained a divorce from his first wife, and the decree forbade both parties to remarry within a year; but within the prescribed time, defendant and deceased, both of them being residents of Illinois, went to Missouri and were married. They then returned to Illinois, and made their home on the land in question. The Illinois Statute declared remarriage within the year to be "absolutely void," and punishable by imprisonment. *Held,* The Missouri marriage was absolutely void, and therefore the defendant can claim no marital rights in the lands of the deceased: *Wilson* v. *Cook* (Ill. 1912) 100 N. E. 222.

Each state has the right to control the validity of marriages contracted abroad between its own citizens; but such right is legislative and not judicial. 1 BISHOP, MARRIAGE, DIVORCE & SEPARATION, § 873. In the absence of statute the general rule is that the *lex loci contractus* controls the validity of a marriage; hence the point under consideration becomes largely a question of statutory construction. A mere prohibition on the guilty party for a prescribed period is usually considered penal, and will not be given extraterritorial effect. *State* v. *Richardson,* 72 Vt. 49, 47 Atl. 103: *Ex parte Crane,* (Mich. 1912) 136 N. W. 587. Some statutes provide that both parties shall be *incapable* of contracting marriage within a year, and that marriages in violation thereof, whether celebrated within or without the state, shall be void; and these are always given extraterritorial effect when the parties are domiciled within the state. *McLennan* v. *McLennan,* 31 Ore. 480, 50 Pac. 802, 38 L. R. A. 863, 65 Am. St. Rep. 835; *State* v. *Fenn,* 47 Wash. 561, 92 Pac. 417; *Pierce* v. *Pierce,* 58 Wash. 662, 109 Pac. 45. The authorities are in conflict when the statute is similar to the one involved in the principal case, that is, containing a general declaration of nullity but not expressly applying it to foreign marriages. As *contra* to the principal case, see *In re Wood's Estate,* 137 Cal. 129, 69 Pac. 900; *Van Voorhis* v. *Brintnall,* 86 N. Y. 18, 40 Am. Rep. 505. See in accord, *Lanham* v. *Lanham,* 136 Wis. 360, 117 N. W. 787, 17 L. R. A. N. S. 804, 128 Am. St. Rep. 1085. The desirability of such a rule is primarily a question for the legislature and not for the courts; but, says Mr. BISHOP, "such legislation, if ever judicious, should be exercised with extreme caution." 1 BISHOP, MARRIAGE, DIVORCE & SEPARATION, § 885. On the general question of the effect of the *lex domicilii* and the *lex loci contractus,* see 11 MICH. LAW REV. 333.

EASEMENTS—WAY OF NECESSITY.—Plaintiff and defendant owned adjoining tracts of land; defendant's tract abutted on a public roadway and was situated between the roadway and the plaintiff's land. Plaintiff purchased his tract from one Rogers about eight years before the suit. During those eight years plaintiff had permissive use of a way across the defendant's land through a gateway opening on to the highway. Defendant obstructed the way by locking the gate. Plaintiff brought suit for obstruction of the way on the ground that it was a way of necessity. *Held,* there cannot be a way of necessity unless the claimant would be wholly deprived of the use of his land, and because it also appeared that plaintiff had not purchased his land from the defendant. *Williams* v. *Kuykendall* (Texas 1912) 151 S. W. 629.

It is difficult to see how plaintiff in this case could expect to acquire an easement of necessity in the land of a stranger. The general rule is, that a way of necessity is based on the presumption of an implied grant—even where the way of necessity is claimed by implied reservation, because the theory in such case is that there is a grant and then a grant back—and in order to found a claim to such an easement, unity of ownership of the dominant and servient tenements at some time is essential. GALE, EASEMENTS (8 Ed.) 171; *Pennington* v. *Galland,* 9 Exch. 1; *Powers* v. *Harlow,* 53 Mich. 507; *Collins* v. *Prentice,* 15 Conn. 39. A way of necessity is a way which is a convenient access to a land-locked tenement over other property belonging to the grantor. *Brown* v. *Alabaster,* L. R. 37 Ch. Div. 490. The case is interesting, however in that the Texas court holds that in order to the creation of a way of necessity the party claiming it must be wholly deprived of the use of his land. *Hall* v. *City of Austin,* 20 Tex. Civ. App. 59. Some jurisdictions hold that a way of necessity will be implied if the access to the land by any other way would involve disproportionate labor or expense. *Pettingill* v. *Porter,* 8 Allen 1, 85 Am. Dec. 671; *Smith* v. *Griffin,* 14 Colo. 429. It appeared in the principal case that the plaintiff could reach the public highway by another way, which was very inconvenient and circuitous. A rule in accordance with that followed in the principal case was announced in *Screven* v. *Gregorie,* 8 Richardson's Law (S. C.) 158, and *Hildreth* v. *Googins,* 91 Me. 227 and cases cited therein.

ELECTIONS—BALLOTS CAST FOR MAN NOT PROPERLY NOMINATED COUNTED TO DETERMINE PLURALITY.—Through an error in the record of the votes the name of the defeated party in the primary nomination contest was placed upon the election ballot, and he received a plurality of the votes at the election. Later it was discovered that the other candidate for the nomination had won at the primaries. *Held,* that the votes for the improperly nominated party were to be counted, and the party receiving the next highest number of votes could not be considered as receiving a plurality. *Heald* v. *Payson* (Me. 1913) 85 Atl. 576.

The facts in this case are novel. The general rule is that votes for an ineligible candidate shall be counted for the determination of majorities, pluralities, etc. *State* v. *Swearingen,* 12 Ga. 23; *Lamoreaux* v. *Ellis,* 89 Mich. 146, 50 N. W. 812; *Campbell* v. *Free,* 93 Pac. 1060. The English rule is to the same effect, unless the electors have sufficient notice of the candidate's ineligibility. *Queen ex rel. Mackley* v. *Coaks,* 3 E. & B. 249; *Claridge* v. *Evelyn,* 5 Barn. & Ald. 81. This rule is followed in Indiana; *Copeland* v. *State,* 126 Ind. 51, 25 N. E. 866; *State* v. *Bell,* 169 Ind. 61, 82 N. E. 69, 13 L. R. A. (N. S.) 1013. On the other hand ballots improperly printed or marked were not taken into consideration in determining the number of votes in *State* v. *Roper,* 47 Neb. 417, 66 N. W. 539; *Hopkins* v. *Duluth,* 81 Minn. 189, 83 N. W. 536; *Catlett* v. *Knoxville S. & E. Ry. Co.,* 120 Tenn. 699, 112 S. W. 559.

EXECUTION—INTEREST SUBJECT THERETO.—One Kendall died, leaving his real and personal property to his wife for life, directing that after her death